

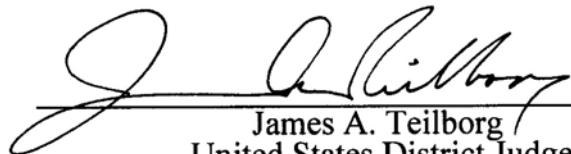
1 2003). The Court modifies the Report and Recommendation to eliminate the suggestion that
2 the undersigned deny a certificate of appealability should Plaintiff seek one because a
3 certificate of appealability pursuant to 28 U.S.C. §2254 does not apply outside of certain
4 habeas writs.

5 Accordingly,

6 **IT IS ORDERED** Accepting and adopting the Magistrate's Report and
7 Recommendation (Doc. 57) with the slight modification noted above.

8 **IT IS FURTHER ORDERED** Denying Plaintiff's Motion for Leave to File Second
9 Amended Complaint (Doc. 49).

10 DATED this 16th day of March, 2011.

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14 James A. Teilborg
United States District Judge
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